



STATE OF CONNECTICUT
DEPARTMENT OF EMERGENCY SERVICES & PUBLIC PROTECTION
OFFICE OF THE COMMISSIONER

April 23, 2012

The Honorable Daryl Justin Finizio, Mayor
City of New London
Office of the Mayor
181 State Street
New London, CT 06320

Ronald Samul, Sr., Fire Chief
City of New London
289 Bank Street
New London, CT 06328

Dear Mayor Finizio and Chief Samul,

I am writing in regard to Al Mayo. In response to a letter of complaint to a legislator about his treatment while a recruit at the Connecticut State Fire Academy, I directed my chief of staff and the agency's director of affirmative action to conduct an investigation. I am enclosing a copy for your review. That investigation has identified a number of areas that need to be addressed at the fire academy and we have begun that process.

While the changes that will be made will hopefully improve procedures in a positive way for future recruits and formalize the communication process between the academy and the fire departments that sponsor them, I also want to make what effort I can to specifically address Mr. Mayo's situation.

As you are aware, Mr. Mayo's academic performance was never in issue and he is currently certified as a Firefighter 1 and Firefighter 2 and eligible to be employed as such. There were a number of communications made to Chief Samul by academy personnel concerning Mr. Mayo that were negative evaluations of his fitness for duty.

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It is my belief that many of the communications were avoidable and would have become unnecessary if academy staff had followed procedures for issuance of deficiency points prior to initiating conversation documents. Mr. Mayo's academic performance indicates that he persevered in the face of considerable adversity which would indicate the presence of positive intangibles in his character.

You will also note from the report that future procedure at the fire academy will ensure that, once a recruit begins training at the academy, all decision making as to whether a recruit is certified and graduates will be made solely by academy personnel. This will ensure the presence of a due process appeals procedure.

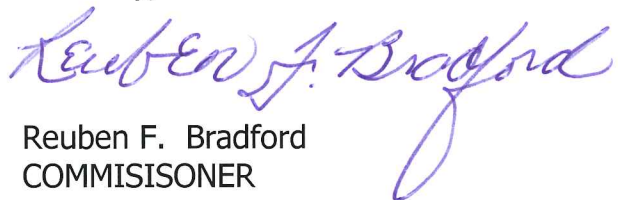
In regard to the communications that were made to Chief Samul, I am particularly concerned about the December 13, 2011 email from Coordinator DeFord in which he reported the "high probability" that Recruit Mayo was responsible for defacing of wet cement. Based on this belief and, although the defacing itself was not viewed as significant, he conveyed "greater issues of honesty, integrity, trustworthiness, and other related positive characteristics of fire service professionals have arisen during this inquiry."

I realize that it is not possible to unring the bell of Mr. DeFord's email and the chain of events that followed, and that Chief Samul and the City of New London may have acted, at least in part, on his opinion. I am writing to advise you that Mr. DeFord's email should be viewed as expressing only his personal opinion as to this matter. It is not in any way a conclusion of the fire academy or this agency.

In fact, I am more inclined to agree with my chief of staff's belief that Mr. Mayo was unlikely to memorialize in cement any tribute to a training class in which his experience from day one was difficult at best.

I do not know whether it is possible for you to revisit your decision-making in view of this communication. Regardless, I feel a responsibility as head of this agency to do what I can to correct the record in regard to this matter.

Sincerely,



Reuben F. Bradford
COMMISSISONER

enc.

c: Peter Carozza
Jeffrey Morrisette

TO: Commissioner Reuben F. Bradford
FROM: Steven Spellman, Chief of Staff
DATE: April 19, 2012
RE: Complaint of Connecticut Fire Academy Recruit Al Mayo

I am writing to summarize findings and recommendations of the investigation you directed me to undertake with the assistance of the agency's affirmative action officer, Jesenia Delgado. I am attaching as part of this report

1. Written statement of Recruit Al Mayo with attachments
2. Rules and Regulations of Connecticut Fire Academy
3. October 26 and December 13 emails from Coordinator William DeFord to New London Fire Chief Ron Samul

Mr. Mayo began training at the CT Fire Academy on September 12, 2011; his training there was sponsored by the City of New London Fire Department. Mr. Mayo's attached statement provides an account of his experience at the academy from his perspective. Mr. Mayo was pulled from the academy by the City of New London 3 days prior to graduation.

As a preliminary matter, it is important to note that the decision to pull Mr. Mayo from the fire academy training program was the City of New London's. The decision not to hire Mr. Mayo is also solely the decision of the City of New London. Despite not graduating, Mr. Mayo passed the necessary tests to be, and is, certified as a Firefighter 1 and Firefighter 2 in the State of Connecticut and is eligible to be hired and employed in such a position.

While noting that the decision to pull Mr. Mayo from the academy training program was solely the City of New London's, this report will indicate that, once a recruit enters the academy, decision making as to whether he or she will become certified and graduate should be made solely by academy staff. It is my conclusion that some of these communications, which New London may have relied on, were inappropriate and contained adverse conclusions concerning Mr. Mayo that were not solidly based in evidence. It is my further conclusion that there needs to be a revamping of procedures at the fire training academy that will provide for approval by training academy leadership of all communications to sponsoring fire departments concerning the performance of their recruits. Further, compliance with existing procedures in regard to issuance of deficiency points should precede use of conversation documents by academy staff. In the future, once a recruit has entered training, any decision as to whether he or she will be certified and graduate must be solely up to academy staff with the accompanying due process protections.

Lastly, there are a number of actions that should be undertaken to ensure that training at the Connecticut State Fire Academy does not discriminate in any way.

These recommended changes are more fully set forth in this report and its conclusions.

Rules and Regulations and the Need to Follow Them

Every recruit is given a copy of the attached Fire Academy Rules and regulations upon entry to the academy. There are procedures outlined in these rules and regulations that, if followed, would give the recruit reasonable notice if he or she is failing to perform in accordance with expectations. Specifically, there is a deficiency point system outlined in section V of the Rules and Regulations that assigns 5 deficiency points for 'major errors' and 1 deficiency point for 'minor errors'. A progression of required counseling sessions with Academy staff for 5, 10 or 20 accumulated points is outlined. These counseling sessions are documented as 'conversation documents,' and are shared with the sponsoring fire department.

The Class of 48, of which Mr. Mayo was a member, collectively received 137 deficiency cards. All deficiency cards issued were 'minor' or 1 point cards. The great majority of these (97) were for low test or quiz scores. Recruit Al Mayo received 2 deficiency cards.

In addition to the documented progressive system of issuance of deficiency cards, there is language in section V -11 providing for 'subjective evaluations' that "will be made daily or as necessary by all instructors to monitor each recruit's performance and behavior." This section does not define beyond what might be inferred from the rest of the rules and regulations as to what is acceptable behavior, but goes on to say that these 'subjective evaluations "may be a contributing factor in prohibiting or denying graduation from the course."

Coordinator William DeFord stated in an interview that fire recruits are evaluated with the use of four domains from Benjamin Bloom's Taxonomy Learning Domains, the four domains being cognitive domain, psychomotor domain, affective domain and work capacity domain. There is nothing in the rules and regulations about Benjamin Bloom or his domains. While there may well be value to the instructors in understanding how recruits learn, a recruit in the fire academy should have the assurance and confidence upon entry to the academy that, if he or she complies with all rules and regulations and passes all tests, they will graduate.

There is a Dismissal and Appeal process outlined in section VI of the regulations. This procedure provides for dismissal for disciplinary action or for failing to perform in accordance with the rules and regulations. It provides that a dismissal may be recommended in writing by the Recruit Program Coordinator to the Director of Training, "who shall notify the recruit's respective department chief." The Director of Training is then required to conduct a thorough investigation of cause for dismissal and inform the recruit in writing within 3 days after completion of investigation.

Most importantly, section VI provides for an appeal process for a recruit who is dismissed and a hearing before a board comprised of the State Fire Administrator and two Certified Fire Instructors who are not part of the training staff for the recruit class in question. If not satisfied with the decision of this board, the recruit may then further appeal to the Commission on Fire Prevention and Control with a hearing before that board.

None of this happened with recruit Al Mayo. He was not 'dismissed' from the academy by official state action but instead pulled from the academy by his sponsoring New London Fire department based on communication to the New London Fire Chief from academy staff as to Mr. Mayo's behavior and qualifications.

This procedure, based on interviews with staff, is commonly used. There is deference to the sponsoring fire department as to how to respond to different fact situations. One of the interviewees, Program Manager William Trisler, expressed a lack of knowledge of *any* procedure in the rules and regulations as to the Fire Academy acting on its own to dismiss a recruit. Recruit Program Coordinator William DeFord was at least aware of some dismissal procedure stating in his interview that "if New London wasn't doing some things we might have done others." When questioned further, DeFord indicated that if New London had not pulled Mayo from the academy he may have approached his superiors in an attempt to deny graduation. (This to a recruit who was already certified as Firefighter 1 and Firefighter 2).

This deference or arguable abdication of decision making to the sponsoring fire chief is more than problematic. In the course of interviews, it was revealed that another recruit in the Class of 48, a white male, was caught cheating on a test. As a preliminary matter that will be discussed further in the subsequent section on discrimination, it is interesting to note that Coordinator DeFord defended this recruit stating his opinion that the behavior was "so out of character" for the individual involved. In this case, the sponsoring fire chief was queried as to how he wanted to proceed. The chief indicated that he wanted to give the recruit an opportunity to retake the test under controlled conditions and see if he was able to pass on his own. The recruit was allowed to 'walk with his class' at graduation and was subsequently tested and passed. He is now working as a paid firefighter in his sponsoring fire department.

The result of leaving decision making entirely to the sponsoring fire chief resulted, in the Class of 48, in a white recruit who cheated on a test graduating and a black recruit with perceived behavioral issues (which will be discussed separately herein) being pulled from the class and not graduating despite being fully certified as a Firefighter 1 and Firefighter 2.

Of equal concern, is that this procedure of leaving the decision making to the sponsoring fire department ends up being a deprivation of due process. Al Mayo may actually have been better off if he was dismissed by academy staff rather than being pulled from the program by his sponsoring department as then he would have the due process benefit of an appeal process where the merits of his case could be heard by disinterested parties. Despite Mr. DeFord's suggestion that a dismissal might have been pursued if New London had not acted, the record concerning Mr. Mayo does not support a conclusion that he should have been dismissed.

Recruit Mayo – Official record

I was able to arrange a meeting with Al Mayo and his attorney. At that time, he agreed to release of his grades for purposes of this report, which are as follows:

Academic grades	1 st Evaluation	2 nd Evaluation	3 rd Evaluation
Homework Average	96.69	93.20	100.00
Class Homework Average	96.74	94.48	98.19
Quiz Average	88.38	79.64	88.47
Class Quiz Average	89.99	87.25	88.11
Certification Exam Grade			90.00

The areas in which Mr. Mayo was evaluated at below average or poor were in regard to behavior and effort. It should be noted that all physical ability and fitness tests of Mr. Mayo were more than acceptable.

As to conduct, Recruit Mayo received only 2 deficiency points. In this class of 48, one self withdrew and of the 46 other recruits, 23, or exactly half received more deficiency points than Mayo did.

Mr. Mayo's record shows two "conversation documentations" and one "incident documentation."

The first "conversation documentation" was at the request of Recruit Coordinator DeFord, and states that it is "based on continued personal observations and feedback from Coordinators, Instructors, and classmates relative to unusual mannerisms and non-verbal communications that have been moderately prejudicial to good order and discipline." It is obvious from the record that this conversation document was not based upon an accumulation of 5 deficiency points, the procedure provided by the rules and regulations. Instead, the conversation document, which was sent to the New London Fire Department, was at Coordinator DeFord's initiative, without having issued an accumulated five deficiency points for any offending behavior. The narrative of this document states in part that "information was conveyed to recruit Mayo regarding his tendency to draw undesirable scrutiny largely because of a misuse of inattentive facial expressions, and often ill-timed mannerisms that are difficult to interpret." When questioned as to what this actually meant at interview, DeFord offered that Mayo was an "eye-roller" and expressed "heavy sighs." When questioned as to whether there was anything in the rules and regulations concerning conversation documents, coordinator DeFord indicated that he was 'not sure.' This is a perfect example where following the procedures provided in the rules and regulations would have prevented an early negative "conversation document" and corresponding negative report to the City of New London Fire Department. If Recruit Mayo was observed rolling his eyes or emitting heavy sighs and advised that such behavior was not acceptable and a deficiency

point issued for repeated instances, he would be on notice and likely his behavior would change prior to accumulating five deficiency points and a conversation document that would be a negative reflection on his record and a negative communication to his employer.

Instead, Mayo was presented with amorphous allegations of “ill timed mannerisms that are difficult to interpret” and a negative beginning with both the academy and his employer.

While the language referenced above in section V -11 of the rules and regulations, providing for “subjective evaluations” that “will be made daily or as necessary by all instructors to monitor each recruit’s performance and behavior” might provide some rationale for a conversation document without accompanying deficiency points, it is much better procedure to issue the deficiency points and document exactly what the perceived problem is. This will provide better communication to the recruit and prevent negative communication to the sponsoring fire department that is not well documented and perhaps preventable.

The second conversation document concerns one specific incident labeled conduct unbecoming a recruit in which Mr. Mayo was videotaped displaying an obscene gesture (“giving the finger”) to the camera while marching in formation and also “continued observed undesirable behaviors.” (which remain undefined). The obscene gesture was wrong and something for which it was appropriate to hold Mr. Mayo accountable. It should be noted that recruit Mayo apologized for this action and Mr. DeFord subsequently emailed the New London Fire Chief on October 25 (copy in appendix) with a “positive observation” regarding Recruit Mayo’s apology and “genuine commitment to making the progress we demand.”

The second reason for the second conversation document is stated as “continued observed undesirable behaviors.” As with the first conversation document, Recruit Mayo was not issued and did not accumulate 5 deficiency points for any “undesirable behaviors,” so we are left wondering, as perhaps Recruit Mayo was, what exactly they are talking about. In fact the conversation document states that “Recruit Mayo was also insistent that his actions were somehow, unknown to him, being interpreted differently and unfavorably than his intentions.”

If the academy staff utilized the deficiency point system for purposes of documenting “undesirable behaviors” then this would serve as an actual training function, making Recruit Mayo or any recruit aware when it happens of what behavior is and is not acceptable. Again, this is a failure to properly utilize the procedures in the Rules and Regulations and ultimately a failure of communication for which the academy staff should share in the blame.

The final negative document in Mr. Mayo’s file is titled “Incident Documentation” and concerns an incident of engraving “Class of 48” in wet cement at a construction area at the academy. There were actually 2 incidents of this and one recruit confessed to one incident. This recruit graduated and the staff viewed being honest about the incident as being more important than the relatively minor vandalism. Without belaboring the entire factual situation, it can be summarized that there is no conclusive evidence as to who did the other act. Based on hearsay and strong suspicions, Coordinator DeFord reported to New London Fire Chief the “high probability” that Recruit Mayo was responsible and based on this belief that, although the

defacing itself was not viewed as significant “greater issues of honesty, integrity, trustworthiness, and other related positive characteristics of fire service professionals have arisen during this inquiry.”

As stated, there is no conclusive evidence as to who was responsible for the second incident. There was suggestion during interviews that some recruits may have found it humorous to suggest that it should be assumed that the only black man in the class was responsible. This in turn may have helped create an actual perception and atmosphere in which the finger of blame pointed at the only black recruit, Al Mayo.

When you review Recruit Mayo’s attached statement of his experience at the academy, he reports that on day one he was the only recruit to put on his boots and find them filled with several inches of water, it seems to this writer highly unlikely that he would have the pride in “class of 48” that would lead him to wish to memorialize his class in cement. I don’t think he did it. No one knows, and yet official communications went forth from this agency to his potential employer stating that it was highly probable that he did do it and then attacking his honesty, trustworthiness and integrity for not confessing. This communication requires some effort at corrective action, which will be addressed in the conclusion and recommendations.

Diversity and Efforts to Prevent Discrimination

Recruit Mayo’s experience from day one at the academy, when, as he put on boots filled with water, should have rang alarm bells at the fire academy. As outlined above, best practices and proper procedures in accordance with rules and regulations were not followed. When you add race into the consideration, it becomes more than troublesome that the only black recruit was pulled from the academy prior to graduation despite being certified as a Firefighter 1 and Firefighter 2 and a white male who was caught cheating, a far more serious matter than anything Recruit Mayo was accused of, was allowed to walk with the graduates and be retested for purposes of certification.

In the interest of making sure that the Connecticut State Fire Academy does not discriminate in any way, there are a number of affirmative steps that should be undertaken:

1. The Academy should keep records as to demographics of all recruit classes. As you are aware, this was not previously done and it is my understanding that the Commissioner of DESPP has already ordered this implemented.
2. Section IV of the Rules and regulations of the Fire Academy, “Connecticut Fire Academy Conduct Policy” should be revised to specifically state that any conduct that is discriminatory will not be tolerated. This section currently contains 18 different prohibited activities yet is silent as to discrimination.
3. Efforts should be made to diversify the training staff both in race and gender.
4. Diversity training should be made available for all existing training staff.
5. It is my understanding that this agency has been offered a limited number of slots for training at the Simon Wiesenthal Museum of Tolerance in New York City. It is recommended that consideration be given to making these slots available to each of the Fire Academy personnel interviewed by Ms. Delgado and myself in connection with this investigation.

Summary of Other Recommendations:

It is my further recommendation that:

1. Staff at the fire academy be directed to utilize the deficiency point system in place for all minor errors and major errors. A conversation document should not be generated unless this procedure is followed.
2. Communications between fire academy staff and sponsoring fire departments need to be subject to greater oversight. Only official communications should take place. If any negative communication is to be sent to the sponsoring fire department those communications should be signed off on by either the Director of Training or the State Fire Administrator to assure that proper procedure has been followed.
3. Once a recruit enters the academy any decision as to whether or not he or she is to be certified and to graduate with the class should be made solely by fire academy staff. It should be made clear to the sponsoring fire departments that once they have sponsored the recruit and paid the tuition, any decisions as to whether or not the recruit will graduate will be made solely by academy staff. This will ensure equality of treatment, make it simpler for the fire departments and for the recruits, who will know when they are handed the rules and regulations that if they comply with all rules, pass all tests and proficiency requirements then they will become certified and they will graduate with their class. If there is any decision to dismiss, the due process and appeal procedures already contained in the rules and regulations will then be available to the recruit in question.

What about Al Mayo?

Implementation of all recommendations as to future procedure at the State Fire Academy will do nothing to change the fact that Recruit Mayo, based largely on communications from this agency, and despite attaining certification as a Firefighter 1 and Firefighter 2, was denied employment by the City of New London Fire Department. The decision making on employment is outside of the jurisdiction of this agency. It is unknown whether it is possible that the decision on this matter might be revisited by the City of New London Fire Department in view of the findings of this investigation. Regardless, I believe that it is imperative that this agency make further efforts to communicate to the City of New London Fire Department in an effort to correct to whatever extent possible adverse communications, particularly in regard to the communication that concluded that it was "highly probable" that Recruit Mayo was responsible for the wet cement defacing and the attendant judgmental aspersions as to his character and trustworthiness, I will be pleased to assist you in drafting such communication if you wish.